

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: October 2, 2017

ROSS SCHUCKER, TOM SHAFFER,
VIRILIO VALDEZ, EDWARD FRYAR,
STEVEN HEINRICH, SHAY BAUER, SHANE
BOWER, on behalf of themselves and all other
employees similarly situated,

16-cv-3439 (KBF)

Plaintiffs,

ORDER

-v-

FLOWERS FOODS, INC., LE PAGE
BAKERIES PARK ST., LLC, C.K. SALES CO.,
LLC, JOHN DOE 1-10,

Defendants.

KATHERINE B. FORREST, District Judge:

The Court has received the parties' motions for Summary Judgment and to amend. (ECF Nos 93, 97.) The Court has determined that the primary question—and potentially a dispositive one—that needs to be addressed is whether plaintiffs are independent contractors. If so, plaintiffs' claims fail and any amendment would be futile. If not, then an amendment may be considered, though the Court does not now resolve the actual outcome of such motion.

Accordingly, as the parties have contractually waived their right to a jury on all matters “in any way arising out of or in connection with this agreement” (Distributor Agreement, at 20.14) the Court shall hold a bench trial solely on the issue of independent contractor/employee status.

Trial on this single issue shall commence on **Monday, October 30, 2017**.

The Court expects the trial to last no more than three days.

In addition, the Court sets a telephonic status conference for **Thursday, October 5, 2017 at 2:00 p.m.** in order to determine what materials the Court will need in advance of trial. The parties shall call Chambers (212-805-0276) from one line at that time.

SO ORDERED.

Dated: New York, New York
October 2, 2017

A handwritten signature in black ink, appearing to read "K. B. Forrest", is written above a horizontal line.

KATHERINE B. FORREST
United States District Judge